

(1877) 06 AHC CK 0002

Allahabad High Court

Case No: None

The Board of Revenue
for the N.-W.P. in the
capacity of the Court
of Wards for the
Minor Rajah of Kantit

APPELLANT

Vs

Nanku and Another

RESPONDENT

Date of Decision: June 14, 1877

Citation: (1875) ILR (All) 443

Hon'ble Judges: Robert Stuart, C.J; Turner, J; Spankie, J; Pearson, J

Bench: Full Bench

Final Decision: Dismissed

Judgement

Robert Stuart, C.J., Pearson, Turner and Spankie, JJ.

We have considered the language of the Small Cause Court Act, and hold that the claim brought in this suit does not fall within any of the classes of suits made cognizable by those Courts. The claim is for a zamindari due customarily payable, it is not a claim for money due on contract, nor for personal property or the value thereof, nor for damages. The opinion at which we have arrived is in accordance with the more numerous rulings of this Court, and with the practice of the Court to allow special appeals in such cases although the sum in dispute is of less amount than Rs. 500. It must not be understood that we impugn the ruling that, where "chaharum" is payable in virtue of a contract, the claim is of a nature triable by a Court of Small Causes.

2. The Division Bench, upon the return of the case with the above finding, dismissed the appeal on the grounds detailed in the judgment of the Court delivered by-

Turner, J.

3. The Full Bench being of opinion that a claim for "haq-i-chaharum" is not cognizable by a Court of Small Causes we may entertain the appeal.
4. The first plea alone is urged that the claim is bad for misjoinder. This plea has for sufficient reasons been overruled by the Courts below. The sale-moneys, although the produce of the sale of more than one lot, have been taken out of Court by the decree-holders, the appellants, and they must give up to the respondent, the zamindar, his due in respect of each sale. The causes of action though several are between the same parties. The appeal fails and is dismissed with costs.